

REMARKS

I. Request for Extension of Time

The present submission is in response to the Office Action mailed June 2, 2009. It is noted that a two-month extension of time is necessary, to order to provide for timeliness of the present response. A request for such an extension is made. Thus, this response is timely as filed on or before November 2, 2009.

II. Inquiry and Request Regarding Identified Filing Date

It is noted that the Office Action mailed June 2, 2009 identified the filing date of Application 10/589,512 as May 7, 2007. This is understood be an error, and a request for correction and/or clarification is sought.

Specifically, the present application is a National Stage U.S. filing of a PCT application PCT/US2005/006037 with an international filing date of February 22, 2005. The U.S. National Stage filing date, as indicated on the returned postcard, a copy of which is attached hereto as Exhibit C, was filed August 15, 2006.

It is understood from the Notice of Acceptance of August 29, 2007, that the filing receipt should indicate the last day of receipt of the requirements identified, both documents being attached as Exhibit D. However, the August 29, 2007 document also states that the filing date of the application is the international filing date of the international application.

Thus, it is believed that under this information, the issue is not with the filing receipt, but rather the PTO's indication on the June 2, 2009 Office Action that May 7, 2007 is the filing date, when the filing date should be identified as stated in the attached August 29, 2007 correspondence, i.e. the international filing date.

Clarification is requested.

III. Examiner's Position Regarding Priority and Disclaimer of Priority

The present application was filed with a statement of priority as a National Stage of PCT/US2005/006037, with an ultimate claim of priority to provisional US 60/643,289, filed January 12, 2005 and U.S. 60/547,759, filed February 23, 2004.

It is understood that the Examiner questions the priority claim to 60/547,759, filed February 23, 2004. Applicants are prepared to remove this priority, for the current claims. An amendment to the specification has been made.

IV. Applicants' Invention; The Positions Taken by the Examiner Based on the Art

The Examiner has rejected claims 1-5 under §102(e) as anticipated by U.S. 7,309,372 Kahlbaugh et al. The key portion of the Examiner's interpretation, is that the fibers of Kahlbaugh et al. '372 are "inherently continuous." It is believed that this interpretation of the Kahlbaugh et al. reference by the Examiner, is a misinterpretation of the language used in the present claims.

Applicants' present claims specification relates to a media stage comprising "continuous, extruded, fibers". This is discussed in the specification at page 43, line 29 – page 44, line 28. Specifically referring to page 43, line 30+, a statement is made that the particular media type of concern are those made from continuous fibers, provided in a bundle and shaped in the form of the desired media shape, for example tubular or panel. With respect to this, and fiber structure generally, reference in the disclosure is made to "American Filtrona" and later on page 44, to three Filtrona patents U.S. 5,509,430; U.S. 6,026,819; and U.S. 6,174,603. From the context of Applicant's disclosure, and the referenced content of these three references, it is apparent that the terminology is meant to refer to fibers that are extruded in a continuous length and are not then cut or chopped to be incorporated into the media. Thus, the term "continuous, extruded, fibers" as used in Applicants' claim should be interpreted to refer to this type of media, and not to media that is generated from short, cut, fiber pieces.

Turning now to Kahlbaugh et al. U.S. 7,309,372, it is apparent that while this reference concerns a variety of media types, the reference is primarily concerned with media and media

formation processes that use cut fiber pieces, as opposed to continuous extruded fibers. With respect to this, as examples, attention is directed to the following parts of U.S. 7,309,372:

1. The description on column 9, lines 44+, where the bicomponent fibers are characterized as typically having a length of 0.1-20 mm often 0.2-15 mm. These are not continuous, extruding, fibers, but rather are cut fiber pieces.
2. The description of cut fiber used for the additional fibers, see for example the disclosure at column 11, lines 7-10 and lines 22-24.
3. The description of 5 mm fibers at column 17, lines 51-57.
4. The description in example 9 of using cut polyester bicomponent fibers that are cut to 6 mm.
5. A similar description appearing in example 10 of using cut polyester bicomponent fibers of 6 mm length.
6. A similar description in example 11 of using polyester bicomponent fiber cut to 6 mm length.

The above examples should be sufficient to understand that the U.S. 7,309,372 reference is concerned with forming media structures that involve cut fibers, rather than continuous extruded fibers. Thus, the reference does not concern the type of media pack defined by Applicants' claims. The secondary reference cited by the Examiner, Gieseke et al. U.S. 6,209,739 does not make up for the deficiency. The reference is merely cited with respect to overall crankcase ventilation system features. It does not describe a continuous extruded fiber arrangement useable as a media pack, for a crankcase ventilation filtration.

V. Provisional Double Patenting Rejection

A. The Examiner raised a provisional double patenting rejection based on claims 1-3 and 5 and 12 of co-pending application 11/883,690. Claims currently pending in U.S. 11/883,690, are attached hereto as Exhibit A.

Applicants do not necessarily agree with the Examiner's position, and it is believed that the position may, in part, be a result of the Examiner's interpretation of the claim language different than intended. However, to obviate the issue and to move the matter forward, a terminal disclaimer as been submitted.

B. The Examiner's attention is also directed to the simultaneously submitted Information Disclosure Statement, and in particular to Exhibit B referenced therein, of the currently pending of USSN 11/884,743. It is requested that the Examiner consider this with respect to any double patenting rejection as well.

VI. Information Disclosure Statement

The Examiner's attention is directed to the Information Disclosure Statement submitted simultaneously herewith, and is requested to indicate that the art and other information identified has been considered in the record.

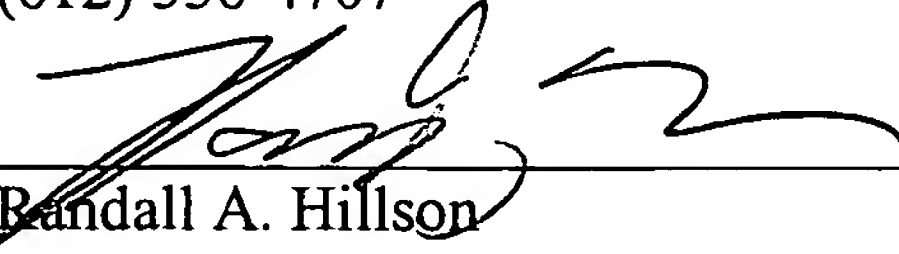
VII. Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance, for claims 1-6. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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